

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW )  
EDMONDSON, in his capacity as ATTORNEY )  
GENERAL OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, in his )  
capacity as the TRUSTEE FOR NATURAL )  
RESOURCES FOR THE STATE OF )  
OKLAHOMA, )

Plaintiff,

vs.

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, )  
INC., CAL-MAINE FOODS, INC., CAL-MAINE )  
FARMS, INC., CARGILL, INC., CARGILL )  
TURKEY PRODUCTION, LLC, GEORGE'S, INC., )  
GEORGE'S FARMS, INC., PETERSON FARMS, )  
INC., SIMMONS FOODS, INC., and WILLOW )  
BROOK FOODS, INC., )

Defendants.

Case No. 05-CV-329-GKF-SAJ

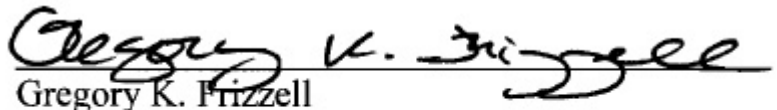
**ORDER**

This matter comes before the Court on the Motion for Leave to Add Counterclaims by Cargill, Inc., and Cargill Turkey Production LLC [Docket No. 1450], and the Joinders filed by Peterson Farms, Inc. [Docket No. 1454], George's Inc. and George's Farms, Inc. [Docket No. 1456], Willow Brook Foods, Inc. [Docket No. 1455], Simmons Foods, Inc. [Docket No. 1464], Cal-Maine Foods, Inc., and Cal-Maine Farms, Inc. [Docket No. 1461], and Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., and Cobb-Vantress, Inc. [Docket No. 1468].

The deadline for motions to amend pleadings passed nearly one year ago. Although the United States Supreme Court did not resolve the circuit split on whether a potentially responsible party can bring a cost recovery claim under CERCLA until June 11, 2007, the proposed contribution claims do not necessarily accrue unless and until defendants incur and pay more than their proportionate share of liability.

**WHEREFORE**, the Motion for Leave to Add Counterclaims by Cargill, Inc., and Cargill Turkey Production LLC [Docket No. 1450], and the Joinders by Peterson Farms, Inc. [Docket No. 1454], George's Inc. and George's Farms, Inc. [Docket No. 1456], Willow Brook Foods, Inc. [Docket No. 1455], Simmons Foods, Inc. [Docket No. 1464], Cal-Maine Foods, Inc., and Cal-Maine Farms, Inc. [Docket No. 1461], and Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., and Cobb-Vantress, Inc. [Docket No. 1468], are denied.

**IT IS SO ORDERED** this 10<sup>th</sup> day of March 2008.

  
Gregory K. Frizzell  
United States District Judge  
Northern District of Oklahoma